

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ESTATE OF JERRY MALLOY, ET AL,

Plaintiffs,

v.

PNC BANK, ET AL,

Defendants.

Case No. 11-12922

Honorable Nancy G. Edmunds

**ORDER GRANTING DEFENDANT TROTT & TROTT'S MOTION FOR JUDGMENT
ON THE PLEADINGS BROUGHT PURSUANT TO FED. R. CIV. P. 12(c) [24] AND
CANCELLING HEARING ON TROTT & TROTT'S MOTION SCHEDULED FOR
JANUARY 18, 2012**

This matter comes before the Court on Defendant Trott & Trott's motion seeking dismissal, pursuant to Federal Rules of Civil Procedure 12(c) and 56. The Court finds that the facts and legal arguments are adequately presented in the parties' pleadings and that the decision process would not be significantly aided by oral argument. Therefore, pursuant to Eastern District of Michigan Local Rule 7.1(f)(2), it is hereby ORDERED that Defendant Trott & Trott's motion [24] be resolved as submitted. For the reasons stated below, Defendant Trott & Trott's Rule 12(c) motion for judgment on the pleadings [24] is GRANTED. The hearing previously scheduled for Defendant's motion on January 18, 2010 is hereby CANCELLED.

In its previous Order [20] denying Plaintiffs' motion to remand, this Court concluded that Defendant Trott & Trott had been fraudulently joined because, on the facts alleged by Plaintiffs, they did not have a colorable basis for any claims against Trott & Trott. In the

present motion, Defendant Trott & Trott reasserts the arguments this Court previously found persuasive – that Trott & Trott was fraudulently joined as a non-diverse party Defendant because Plaintiffs did not have a colorable state-law cause of action against Defendant law firm. For that same reason, Defendant Trott & Trott's Rule 12(c) motion for judgment on the pleadings is GRANTED. Moreover, following the Sixth Circuit's mandate in *Probus v. Charter Communications, LLC*, 234 F. App'x 404, 407 (6th Cir. 2007), because Defendant Trott & Trott is to be dismissed from this suit entirely, the Court will not address the merits of its summary judgment motion.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: January 4, 2012

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 4, 2012, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager